



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of Audits and Investigations

May 27, 2022

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

FROM: Josh Hamlin 
Director of Budget and Policy Analysis

RE: Policy Analysis and Fiscal Statement
CB-050-2022 Charter Amendment – Redistricting Procedure (DR-1)

CB-050-2022 (*Proposed and presented by: Council Member Turner*)

Assigned to the Committee of the Whole (COW)

AN ACT CONCERNING AMENDMENT OF SECTION 305, CHARTER OF PRINCE GEORGE'S COUNTY for the purpose of proposing an amendment to Section 305 of the Charter of Prince George's County to amend the legislative process for the decennial County Council redistricting plan changing the Commission's plan, specifying that it shall be done by law, shall not be subject to executive veto or emergency legislation under the Charter, and generally regarding redistricting requirements.

Fiscal Summary

Direct Impact:

Expenditures: None likely.

Revenues: None.

Indirect Impact:

None likely.

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Legislative Summary

CB-050-2022¹, proposed by Council Member Turner, will be presented and referred to the Committee of the Whole (COW) on May 31, 2022. CB-050-2022 would amend Section 305 to clarify the process by which the County Council may amend the decennial redistricting plan submitted by the Redistricting Commission.

Current Law/Background

Charter amendments generally

Amendments to the County Charter are made pursuant to Charter Section 1105.² A Council-initiated Charter amendment must be in the form of an act of the Council approved by not less than two-thirds of the members of the full Council, which is exempt from executive veto. Once enacted by the Council, the proposed amendment is summarized in the form of a question which is then submitted to County voters at the next general election. If a majority of votes cast on the question are in favor of the proposed amendment, the amendment stands adopted from and after the thirtieth day following the election.

Proposed Charter amendments must be published by the County Executive in the County newspapers of record and in media for public notice as defined in Charter Section 1008 for five successive weeks prior to the election at which the question is on the ballot.

Charter Section 305. - Redistricting Procedure.

Charter Section 305 provides the procedure for redrawing Council district every 10 years. The full text of the section is below:

The boundaries of Council districts shall be reestablished in 1982 and every tenth year thereafter. Whenever district boundaries are to be reestablished the Council shall appoint, not later than February 1 of the year prior to the year in which redistricting is to be effective, a commission on redistricting, composed of two members from each political party chosen from a list of five names submitted by the Central Committee of each political party which polled at least fifteen percent of the total vote cast for all candidates for the Council in the immediately preceding regular election. The Council shall appoint one additional member of the Commission who shall serve as chairman. No person shall be eligible for appointment to the Commission if he holds any elected office. By September 1 of the year prior to the year in which redistricting is to be effective, the Commission

¹ [LZIS: CB-050-2022](#)

² [Prince George's County Charter, Sec. 1105](#)

shall prepare, publish, and make available a plan of Council districts and shall present that plan, together with a report explaining it, to the Council. The plan shall provide for Council districts that are compact, contiguous, and equal in population. No less than fifteen calendar days and no more than thirty calendar days after receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If the Council passes no other law changing the proposal, then the plan, as submitted, shall become law, as of the last day of November, as an act of the Council, subject to Sections 320 and 321 of this Charter. Such law shall be adopted by resolution of the County Council upon notice and public hearing.

Resource Personnel

Kathy Canning, Legislative Officer.

Discussion/Policy Analysis

The amendments proposed in CB-050-2022 are in response to the County Council’s attempt to amend the most recent redistricting plan in November 2021.³ In that instance, following the requirement imposed in the last sentence of the current Section 305, the Council adopted a resolution approving a district map that differed from that recommended by the Redistricting Commission (the Commission). This action was subsequently subjected to a legal challenge, in which the Circuit Court invalidated the Council resolution and map, and reinstated the district map recommended by the Commission. The County appealed the decision and, on March 7, 2022, the Maryland Court of Appeals issued a per curiam order affirming the Circuit Court decision.⁴ The per curiam order indicated that a full opinion would be forthcoming, but that opinion has as not, as of May 27, 2022, been issued. The litigation highlighted ambiguity in the provisions of Section 305, particularly with regard to the specific type of legislative action necessary to change the Commission plan.

The substantive changes proposed in CB-050-2022 are as follows:

- specifically providing that the “Commission’s plan” is the plan subject to Council action changing it (*DR-1, page 2, line 7*) to remove any ambiguity in this regard;
- adding the language “[a]ny law by the Council changing the Commission’s plan shall not be subject to executive veto under Section 411 of the Charter or considered emergency legislation under Section 317 of the Charter”;
- deleting the final sentence of the Section that requires changes to the Commission plan be a “law adopted by resolution of the County Council upon notice and public hearing.”

³ [LZIS: CR-123-2021](#)

⁴ <https://www.courts.state.md.us/data/opinions/coa/2022/63a21pc.pdf>

These proposed changes recognize, as the Court determined that a *bill* is necessary for the Council to change, *by law*, the Commission plan. As amended, Section 305 would clearly contemplate the use of a *bill* to make changes to the Commission plan, but would exempt that bill from Executive veto and prohibit it from being considered emergency legislation.⁵

Exempting legislative acts revising councilmanic districts is not unprecedented. Anne Arundel County Charter Section 207 specifies that:

the County Council is hereby empowered by ordinance enacted by the affirmative vote of not less than five members, to revise, amend or reconstitute councilmanic districts then in effect but not to change the number thereof. Any such ordinance shall not be subject to executive veto and shall become law on the date of its enactment by the Council. Any such ordinance shall not be an emergency ordinance and shall be subject to the referendum provisions of Article III of this Charter.⁶

Similarly, Baltimore County Charter Section 207(d) provides that “[t]he final redistricting plan adopted by the county council is not subject to the executive veto provided in Article III, Section 308(g), but is subject to the referendum provision of Article III, Section 309.”⁷

It is worth noting, however, that while both Anne Arundel and Baltimore Counties’ redistricting ordinances are subject to referendum, the Prince George’s County Charter Section 319 expressly exempts laws “establishing Councilmanic districts” from referendum. How a referendum on a law establishing councilmanic districts would work is, however, an open question, since presumably both the referendum on the law and the first elections under the new district boundaries would be held at the same time.

While the particulars of an amendment to eliminate the ambiguity and/or conflicts within the existing Section 305 may be the subject to debate, the need for such an amendment was made clear by the recent decision of the Maryland Court of Appeals.

Fiscal Impact:

Direct Impact

Enactment and approval of CB-050-2022 should not have any direct fiscal impact on the County. It merely clarifies and makes changes to an existing process.

⁵ “Emergency” bills are permitted under limited circumstances, may take effect immediately, and remain in effect if subjected to a referendum unless and until it is rejected by the voters. See Charter Sections [317](#), [318](#), and [319](#).

⁶ [Anne Arundel County Charter Section 207. Revision of councilmanic districts.](#)

⁷ [Baltimore County Charter Section 207. Revision of councilmanic districts.](#)

Indirect Impact

Enactment and approval of CB-050-2022 is not likely to have any indirect fiscal impact on the County, but the certainty provided by clarifying amendments to Section 305 may spare the County the expense of future litigation concerning redistricting.

Appropriated in the Current Fiscal Year Budget

N/A

Effective Date of Proposed Legislation

The proposed Acts, if enacted, shall be presented as a question for voters during the County General Election occurring on November 8, 2022, and if the majority of votes cast on the respective questions shall be in favor of the proposed amendments, such amendments shall stand adopted from and after the thirtieth day following said election.

If you require additional information, or have questions about this fiscal impact statement, please call me.